

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 11-12239-GAO

EXCEPTIONAL MARKETING GROUP, INC.,
Plaintiff,

v.

JEFF JONES,
Defendant.

ORDER
July 29, 2013

O'TOOLE, D.J.

After review of the parties' submissions constituting the summary judgment record, I conclude that the defendant's motion for summary judgment (dkt. no. 57), renewed with permission, should be denied. There are material disputes between the parties not only about discrete facts but more importantly about what additional inferences or conclusions of fact might or might not be drawn from them. As just one example, the parties' dispute whether Jones' publicizing his relocation to 89 Degrees was simply an innocent sharing of potentially interesting information or rather was a sly indirect solicitation of Fiesta Americana's business. That is a question that a fact finder would best resolve after an opportunity to assess the evidence produced in a full trial, with the accompanying opportunity to observe and evaluate the credibility and reliability of witnesses. There are similar kinds of issues as to each of the claims.

The defendant's motion for summary judgment is DENIED.

It is SO ORDERED.

/s/ George A. O'Toole, Jr.
United States District Judge